Violations of human rights in Turkey

1. The Lawyers Committee for Human Rights remains concerned about the continuation of widespread human rights violations in Turkey. Lawyers Committee delegates who have visited Turkey in recent months have been encouraged, however, by the extensive debate about human rights issues in the local media, and the stated commitment of many government officials to take necessary action in the field of human rights. This recognition of the existence of a problem is a welcome contrast to previous official positions that have denied the existence of human rights violations. The Lawyers Committee also welcomes the visit of the Special Rapporteur on torture to Turkey.

2. Nevertheless, severe human rights problems remain in Turkey and essential measures to curtail widespread violations of human rights have not been implemented by the Government. Safeguards against torture for detained criminal suspects are insufficient; human rights advocates, lawyers and intellectuals continue to be prosecuted and imprisoned for the non-violent expression of their views critical of government policy; and, procedures for holding accountable members of the security forces involved in gross violations of human rights, such as torture or extrajudicial killing, are seriously deficient, fostering a climate of impunity in which violations multiply.

3. With the weakness of the civilian Government, Turkey's military plays a more overt role in politics, a factor unlikely to foster the promotion of human rights reform and democratization. Ambitious programmes of legislative reform that promise to have a positive effect on areas of abiding concern in Turkey's human rights record, such as freedom of speech and torture, have been blocked by political uncertainty. This uncertainty undermined the ability of the coalition Government of former Prime Minister Mesut Yilmaz to carry out its promises. Strong, stable civilian Government is a precondition of substantial progress in the human rights area.

Impunity

4. In several ongoing cases in which members of the security forces are facing charges for involvement in torture or extrajudicial killing, there appears to be a pervasive reluctance to hold members of the security forces accountable for violations they may commit. Accused officers remain on active duty, in a position to intimidate their accusers and witnesses in the case. Hearings are attended by large numbers of plain-clothes police and security officers who pack the courtroom to intimidate and threaten lawyers acting on behalf of victims of violations. There is an urgent need for legislative reform in the way in which complaints against members of the security forces are investigated and prosecuted, as well as changes in official attitudes about holding them accountable for involvement in human rights violations. Specifically, administrative hurdles to the prosecution of members of the security forces resulting from the 1913 Law on the Procedures for the Investigation of Civil Servants must be revised to comply with Turkey's

obligations as a State party to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and other binding international instruments. In accordance with these obligations, Turkey must carry out prompt, thorough and impartial investigations into allegations of torture.

The persecution of human rights advocates and lawyers

5. Last May, the world received the chilling news of the near fatal attack on Akin Birdal, the head of Turkey's largest human rights organization, the Human Rights Association. This type of attack, which drew widespread international and domestic condemnation, is facilitated by an atmosphere in which the promotion and protection of human rights is too often seen as a subversive activity. Mr. Birdal continues to face criminal prosecutions and convictions arising from his non-violent activities as a human rights activist. The prosecution of other human rights advocates for their statements about human rights continues. Branches of human rights organizations remain closed, notably the Diyarbakir branch of the Human Rights Association, and the Urfa branch of the Organization of Human Rights and Solidarity for Oppressed People (Mazlum Der). The Turkish Government should rescind the closure orders against branches of non-governmental human rights organizations and should desist from the prosecution of those who expose State involvement in human rights violations. Lifting restrictions on independent human rights advocacy is an important part of changing public attitudes to human rights in Turkey.

6. Turkey should undertake to fully implement the "Declaration on Human Rights Defenders" adopted by the General Assembly, which reiterates the obligation of States to protect and facilitate the work of human rights defenders and affirms that "everyone has the right, individually and in association with others, to promote and strive for the protection of human rights and fundamental freedoms at the national and international level". 1/

7. Lawyers who represent political cases before State Security Courts are also subjected to official pressure, including threats, harassment and even prosecution on apparently fabricated charges. The case against 25 lawyers from Diyarbakir, dating from 1993, is the most prominent current example of this widespread problem. The charges against these 25 lawyers, many of whom were tortured and forced to sign inculpatory statements during pre-trial detention, do not stand up to scrutiny and should be dismissed.

State Security Court procedures

7. Two aspects of these exceptional tribunals especially concern the Lawyers Committee. Firstly, the protracted period of pre-trial detention permitted under the law and the consequent delay in the detainee's access to counsel violates international standards. As many prosecutions in State security cases are based on statements taken from the accused during this pre-trial period, access to counsel at this time is particularly important. Incommunicado detention also increases a detainee's vulnerability to torture. In October 1998 the Turkish Government issued a revised Regulation on Apprehension, Police Custody and Interrogation. Unfortunately, this new regulation did not remove the prohibition on a State security detainee having

access to a lawyer during the first four days of detention. Article 20 of the Regulation makes clear that: "In crimes falling under the scope of the State Security Courts, the apprehended person may meet his lawyer only upon extension of the custody period by order of the Judge." This judicial review of detention takes place after four days.

8. Secondly, the presence of a military officer as a member of the three-person judicial panel raises concerns about the independence of the court. In the case of Incal v. Turkey, in June 1998, the European Court of Human Rights ruled that the applicant "could legitimately fear that because one of the judges of the Izmir National Security Court (sic) was a military judge it might allow itself to be unduly influenced by considerations which had nothing to do with the nature of the case". The Court found a violation of article 6 (1) of the European Convention on Human Rights which provides for a "fair and public hearing ... by an independent and impartial tribunal ..."

Recommendations

9. The Lawyers Committee for Human Rights recommends the abolition of exceptional courts and the unification of the penal courts; pending that, procedures in State Security Courts should be brought into line with prevailing norms in international human rights law which require that all persons arrested or detained "shall have prompt access to a lawyer, and in any case not later than 48 hours from the time of arrest or detention".

10. Given the gravity of the situation, the Lawyers Committee for Human Rights calls upon the Commission on Human Rights to pay increased attention to the ongoing human rights violations in Turkey. The Lawyers Committee calls upon Turkey to implement fully the recommendations issued by the Commission's Special Rapporteur on torture after his visit to the country. The Committee also urges Turkey to extend an invitation to the Special Rapporteur on the independence of judges and lawyers, who has repeatedly indicated his interest in conducting a mission to Turkey.

Note

1/ Article 1. For more information on the "Declaration on Human Rights Defenders", see "Protecting Human Rights Defenders: analysis of the newly adopted Declaration on Human Rights Defenders", Lawyers Committee for Human Rights, January 1999.